

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Sampson	Team: Squad #8	CCRB Case #: 201807212	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/20/2018 9:04 PM	Location of Incident: 70th Precinct Stationhouse	Precinct: 70	18 Mo. SOL 2/20/2020	EO SOL 2/20/2020	
Date/Time CV Reported Thu, 08/30/2018 1:39 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 08/30/2018 1:39 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Jewel James	13875	947101	070 PCT
2. POM Hector Vargas	13423	911407	070 PCT
3. SGT Gordon Fraser	01374	911945	070 PCT
4. POM Rawn Browne	09458	963419	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Gordon Fraser	Force: Sergeant Gordon Fraser used physical force against § 87(2)(b)	
B.POF Jewel James	Abuse: Police Officer Jewel James refused to provide her name to § 87(2)(b)	
C.POM Hector Vargas	Abuse: Police Officer Hector Vargas interfered with § 87(2)(b)'s use of a recording device.	
D.POM Rawn Browne	Abuse: Police Officer Rawn Browne interfered with § 87(2)(b)'s use of a recording device.	

Case Summary

On August 30, 2019, § 87(2)(b) filed this complaint with the CCRB using the Call Processing System. § 87(2)(b)

On August 20, 2019, at approximately 9:04 p.m., § 87(2)(b) went to the 70th Precinct Stationhouse in Brooklyn to follow-up on an accident report. When the officers realized that § 87(2)(b) was recording inside the stationhouse, Sgt. Gordon Fraser, who retired from the NYPD but was previously assigned to the 70th Precinct, escorted § 87(2)(b) from the stationhouse. Sgt. Fraser then allegedly pushed § 87(2)(b) out of the stationhouse and then closed the door on her (**Allegation A: Force**, § 87(2)(g)). PO Jewel James, also of the 70th Precinct, allegedly refused to provide her name to § 87(2)(b) (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Hector Vargas and PO Rawn Browne, both of the 70th Precinct, interfered with § 87(2)(b)'s recording device (**Allegations C and D: Abuse of Authority**, § 87(2)(g)). No arrests were made and no summonses were issued.

§ 87(2)(b) provided video footage of this incident, which she recorded on her cell phone [BR 01]. Surveillance footage from the 70th Precinct Stationhouse was also obtained [BRs 02 and 03]. There is no BWC footage of this incident.

Findings and Recommendations

Allegation A – Force: Sergeant Gordon Fraser used physical force against § 87(2)(b)

It is undisputed that after informing § 87(2)(b) that she could not record inside the stationhouse, Sgt. Fraser escorted § 87(2)(b) from the building by taking ahold of her arm. It is further undisputed that Sgt. Fraser did not push § 87(2)(b) out of the stationhouse as alleged and that no part of the stationhouse door hit § 87(2)(b) on her way out.

§ 87(2)(b) was interviewed at the CCRB on September 21, 2018 [BR 04]. She stated that Sgt. Fraser took her by the arm and escorted her towards the door. Sgt. Fraser then “pushed” § 87(2)(b) out of the stationhouse, which she described as holding § 87(2)(b) by the bicep and then propelling her forward, through the open doorway. Sgt. Fraser then “slammed/pushed” the door onto § 87(2)(b)'s right shoulder blade and her backside.

Stationhouse surveillance footage confirms that Sgt. Fraser took § 87(2)(b) by the arm and walked her from the stationhouse [BR 05]. The footage also shows that Sgt. Fraser did not push § 87(2)(b) through the doorway as alleged and that Sgt. Fraser did not close any part of the door on § 87(2)(b). Given this information, Sgt. Fraser was not interviewed.

§ 87(2)(g)

Allegation B – Abuse of Authority: Police Officer Jewel James refused to provide her name to § 87(2)(b)

It is undisputed that § 87(2)(b) requested PO James' name during this encounter and that PO James failed to provide her name to her. It remains disputed if PO James heard § 87(2)(b)'s request.

§ 87(2)(b) did not allege that PO James refused to provide her name during this encounter. However, in the video footage § 87(2)(b) provided, § 87(2)(b) is heard asking PO James for her name while PO James is standing in the vestibule of the stationhouse with PO Vargas and PO Browne [BR 06]. § 87(2)(b) was standing outside of the stationhouse at the

time and made the request through the closed door of the stationhouse. PO James does not respond to § 87(2)(b)'s request and turns her back to § 87(2)(b).

PO James was interviewed at the CCRB on December 7, 2018 [BR 07]. Prior to reviewing footage from this incident, PO James said that she did not hear § 87(2)(b)'s request her name at any point and denied that she ever refused to provide that information to § 87(2)(b). PO James was then shown the footage recorded by § 87(2)(b) in which § 87(2)(b) is heard requesting her name. Upon viewing the footage, PO James said that, although she could hear § 87(2)(b) as she addressed the officers through the stationhouse door, she did not hear § 87(2)(b)'s request her name because at that moment in time, PO James was engaged in a conversation with PO Vargas and PO Browne. She denied that she intentionally refused to provide her name to § 87(2)(b) and added that her shield is visible in the footage. She also said that it was a coincidence that she turned her back to § 87(2)(b) as she requested her name, and denied that she intentionally turned her back to § 87(2)(b) as that would be disrespectful.

§ 87(2)(g)

Allegation C: Abuse of Authority – Police Officer Hector Vargas interfered with § 87(2)(b)'s use of a recording device.

Allegation D: Abuse of Authority – Police Officer Rawn Browne interfered with § 87(2)(b)'s use of a recording device.

It is undisputed that PO Vargas and PO Browne interfered with § 87(2)(b)'s recording device as she stood on the front steps to the stationhouse.

§ 87(2)(b) stated that she continued to record the officers after exiting the stationhouse. While standing approximately three feet from the door to the stationhouse, officers, including PO James and PO Vargas, came outside and instructed § 87(2)(b) to back up and to move to the side. At the same time, PO Vargas stepped in front of § 87(2)(b) such that his body pressed against hers. § 87(2)(b) did not allege that any of their actions interfered with her recording ability and did not allege that any officer placed his hand in front of her cell phone.

Surveillance footage from the stationhouse [BR 08] and video footage recorded by § 87(2)(b) [BR 09] show that as § 87(2)(b) stood on the front steps of the stationhouse, officers began escorting arrested individuals into the stationhouse. § 87(2)(b)'s footage shows that at that point, PO Vargas instructed § 87(2)(b) to stop recording and then stood in front of her cell phone, blocking it. Similarly, PO Browne placed his hand in front of § 87(2)(b)'s cell phone. Although PO James is seen extending her arm in front of § 87(2)(b) the investigation determined that she did so to keep § 87(2)(b) from blocking the entrance to the stationhouse and later to prevent § 87(2)(b) from coming too close to her. § 87(2)(g)

PO Vargas was interviewed at the CCRB on January 17, 2019 [BR 10]. He stated that after § 87(2)(b) was removed from the stationhouse, he noticed that she was “acting irrationally” outside the front door. § 87(2)(b) was standing on the steps to the stationhouse cursing at the officers and accusing them of violating the rules. PO Vargas stepped outside with § 87(2)(b) and then heard over the radio that an arrested individual and complainant were being brought into the stationhouse. At that point, PO Vargas told § 87(2)(b) that she could not

record those individuals because they have “rights.” PO Vargas believed that he also obstructed § 87(2)(b) s camera by putting his body in front of the camera and extending his arms in front of him. PO Vargas stated that he did so because recording is not allowed inside the stationhouse and the steps in front of the stationhouse are considered part of the police station.

PO Browne was interviewed at the CCRB on March 6, 2019 [BR 11]. He stated that after exiting the stationhouse, § 87(2)(b) remained outside the door and continued to record the officers. § 87(2)(b) cursed at the officers and called them “many names.” While § 87(2)(b) was standing on the sidewalk in front of the stationhouse, she recorded civilians who were being brought into the stationhouse. Prior to reviewing video footage from the incident, PO Browne denied that he physically blocked or obstructed § 87(2)(b) from recording those individuals. PO Browne stated that he was “not too sure” whether civilians could record on the sidewalk, in the street, or in the area immediately outside the stationhouse. He then said that to his knowledge “people are allowed to record outside.” After being shown footage of this incident recorded by § 87(2)(b) PO Browne amended his prior statement and acknowledged that his hand can be seen being placed in front of § 87(2)(b) s camera. Before seeing the footage, he did not independently recall doing this. However, after viewing the footage, he stated that he placed his hand in front of § 87(2)(b) s camera to prevent her from recording prisoners who were being brought into the stationhouse. There was no other reason why he placed his hand in front of § 87(2)(b) s camera.

NYPD Patrol Guide Procedure 203-29 [BR 12] states that individuals have a right to lawfully record police activity including, but not limited to, arrests and detentions. This right extends to individuals in public places such as streets and sidewalks. This right to record can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual who is recording. Members of the public are not allowed to record police activity within Department facilities.

§ 87(2)(g)

Allegations Not Pleaded

- § 87(2)(b) alleged that Sgt. Fraser placed her identification in a cigarette waste receptacle outside of the stationhouse. Surveillance footage from the stationhouse [BR 05] and video footage recorded by § 87(2)(b) [BR 13] shows that after PO Browne and Sgt. Fraser made numerous attempts to return § 87(2)(b) s identification to her, Sgt. Fraser placed the documents in the receptacle outside of the stationhouse. § 87(2)(g)
- § 87(2)(b) alleged that as she attempted to retrieve her identification, PO Vargas asked her “if [she] wanted to kiss him.” Video footage recorded by § 87(2)(b) [BR 14] shows

that, while standing roughly a foot from PO Vargas, PO Vargas asks § 87(2)(b) “Are we gonna kiss or what?” In his interview, PO Vargas stated that he made the comment because § 87(2)(b) was standing too close to him and there was no need for her to be that close. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
 - § 87(2)(b)
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 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
- PO James has been a member-of-service for 10 years and this is the first CCRB complaint to which she has been a subject.
- PO Vargas has been a member-of-service for 26 years and has been a subject in four previous complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Browne has been a member-of-service for one year and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On March 14, 2019, a Notice of Claim request was sent to the New York City Office of the Comptroller and will be added to the case file upon receipt.
- § 87(2)(b)
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§ 87(2)(b)

Squad No.: ___8___

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date